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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,698	07/20/2006	Akifumi Hayashi	06462/LH	7832
1933 7590 01/05/2009 FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 Fifth Avenue 16TH Floor NEW YORK, NY 10001-7708				
EXAMINER				
HAND, MELANIE JO				
ART UNIT		PAPER NUMBER		
3761				
MAIL DATE		DELIVERY MODE		
01/05/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/586,698

**Applicant(s)**

HAYASHI ET AL.

**Examiner**

MELANIE J. HAND

**Art Unit**

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 October 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) 4-7, 12-14, 16-20 and 22 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-3, 8-11, 15 and 21 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 20 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date see Other  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☒ Other: See Continuation Sheet

Continuation of Attachment(s) 6). Other: 7/20/06,9/20/06,2/16/07.

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of species (9), claims 1-3, 8-11, 15 and 21, in the reply filed on October 20, 2008 is acknowledged.
2. Claims 4-7, 12-14 and 16-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

***Priority***

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Information Disclosure Statements***

4. The information disclosure statements (IDS) submitted on July 20, 2006, September 20, 2006 and February 16, 2007 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 8-11, 15 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Datta et al (WO 01/10372 A1).

With respect to **claim 1**: Datta discloses an absorbent article comprising a liquid-permeable topsheet 31 positioned at a surface 34 that contacts with a human body, a non liquid-permeable backsheet 30 positioned at a surface opposite to the topsheet 31 and an absorbent body 32 provided between the topsheet and the backsheet. (Page 12, lines 2-5) A three-dimensional gather is formed by a folding portion at which the backsheet is folded up to the topsheet side substantially along both side portions in a longitudinal direction of the absorbent body (see Fig. 3) and a nonwoven fabric in the form of side panel members 42,44 at least partially adhered to the folding portion. (Page 15, lines 26-28, Page 16, lines 1,2) the three-dimensional gather has a free end 51 structured with the nonwoven fabric. (Page 15, lines 32-35)

With respect to **claim 2**: The nonwoven fabric 42,44 is adhered to a surface opposite to a surface of the folding portion that faces the topsheet 31. (Fig. 3)

With respect to **claim 3**: The nonwoven fabric 42 or 44 is adhered to the backsheet 30 from an adhesion starting point 48 at an inner side in a width direction than a folding starting point of the folding portion. (Page 15, lines 27-29)

With respect to **claim 8**: Datta discloses an absorbent article comprising a liquid-permeable topsheet 31 positioned at a surface 34 that contacts with a human body, a non liquid-permeable backsheet 30 positioned at a surface opposite to the topsheet 31 and an absorbent body 32 provided between the topsheet and the backsheet. (Page 12, lines 2-5) A three-dimensional

gather is formed by a folding portion at which the backsheet is folded up to the topsheet side substantially along both side portions in a longitudinal direction of the absorbent body (see Fig. 3) Datta discloses an attachment portion at which a part of the folding portion is adhered to both side portions in the longitudinal direction of the topsheet inasmuch as the folding portion of backsheet is adhered to topsheet 31 along the longitudinal direction (Page 15, lines 8-11) The folding portion constitutes at least a part of the three-dimensional gather. Datta discloses an adhesion section at which the attachment portion is folded up to the topsheet side and is adhered to the topsheet inasmuch as the attachment portion forms part of side flaps 40 wherein the side flaps 40 are folded over and bonded to the body-facing side of the absorbent assembly or core, which requires adhesion to the topsheet. (Page 16, lines 12-14)

With respect to **claim 9**: The three-dimensional gather disclosed by Datta is composed of the folding portion and a non liquid-permeable nonwoven fabric in the form of respective side panel member 42 or 44 at least partially adhered to the folding portion (Page 15, lines 26-28, Page 16, lines 1,2), and the three-dimensional gather has a free end 51 structured with the non liquid-permeable nonwoven fabric. (Page 15, lines 32-35)

With respect to **claim 10**: The nonwoven fabric 42,44 is adhered to a surface opposite to a surface of the folding portion that faces the topsheet 31. (Fig. 3)

With respect to **claim 11**: The nonwoven fabric 42 or 44 is adhered to the backsheet 30 from an adhesion starting point 48 at an inner side in a width direction than a folding starting point of the folding portion. (Page 15, lines 27-29)

With respect to **claim 15**: Datta discloses an inner absorbent article comprising a liquid-permeable topsheet 31 positioned at a surface 34 that contacts with a human body, a non liquid-permeable backsheet 30 positioned at a surface opposite to the topsheet 31 and an absorbent body 32 provided between the topsheet and the backsheet. (Page 12, lines 2-5) A three-dimensional gather is formed by a folding portion at which the backsheet is folded up to the topsheet side substantially along both side portions in a longitudinal direction of the absorbent body (see Fig. 3) and a nonwoven fabric in the form of side panel members 42,44 at least partially adhered to the folding portion. (Page 15, lines 26-28, Page 16, lines 1,2) The nonwoven fabric 42,44 is adhered to a surface opposite to a surface of the folding portion that faces the topsheet 31. (Fig. 3) The nonwoven fabric 42 or 44 is also adhered to the backsheet 30 from an adhesion starting point 48 at an inner side in a width direction than a folding starting point of the folding portion. (Page 15, lines 27-29) The three-dimensional gather has a free end 51 structured with the nonwoven fabric. (Page 15, lines 32-35)

With respect to **claim 21**: Datta discloses an inner absorbent article comprising a liquid-permeable topsheet 31 positioned at a surface 34 that contacts with a human body, a non liquid-permeable backsheet 30 positioned at a surface opposite to the topsheet 31 and an absorbent body 32 provided between the topsheet and the backsheet. (Page 12, lines 2-5) A three-dimensional gather is formed by a folding portion at which the backsheet is folded up to the topsheet side substantially along both side portions in a longitudinal direction of the absorbent body (see Fig. 3) Datta discloses an attachment portion at which a part of the folding portion is adhered to both side portions in the longitudinal direction of the topsheet inasmuch as the folding portion of backsheet is adhered to topsheet 31 along the longitudinal direction (Page 15, lines 8-11) The folding portion constitutes at least a part of the three-dimensional gather.

Datta discloses an adhesion section at which the attachment portion is folded up to the topsheet side and is adhered to the topsheet inasmuch as the attachment portion forms part of side flaps 40 wherein the side flaps 40 are folded over and bonded to the body-facing side of the absorbent assembly or core, which requires adhesion to the topsheet. (Page 16, lines 12-14)

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELANIE J. HAND whose telephone number is (571)272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Melanie J Hand/  
Examiner, Art Unit 3761



